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Attorneys for Defendant Novo Nordisk Inc.

**UNITED STATE DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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PETER LUTZKER,

Civil Action No. 07-3272 (JG/RR)

Plaintiff,

-against-

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NOVO NORDISK PHARMACEUTICALS, INC.,

Defendant.
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**DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES
TO SUMMONS WITH NOTICE**

Defendant Novo Nordisk Inc. f/k/a Novo Nordisk Pharmaceuticals, Inc. ("Defendant")
by and through its undersigned attorneys, Morgan Lewis & Bockius LLP, hereby answers
Plaintiff Peter Lutzker's ("Plaintiff") Summons With Notice ("Summons") in the above-
captioned matter as follows:

NATURE OF THE ACTION

Defendant denies the allegations in the Summons, except admits that Plaintiff purports to
assert claims for (a) gender discrimination; (b) hostile work environment; (d)¹ retaliation; and (e)
constructive discharge, under the New York State Human Rights Law, Executive Law § 296 *et*
seq. Defendant further denies that it engaged in any discriminatory or unlawful conduct towards
Plaintiff.

¹ The Summons skips the letter "(c)."

RELIEF REQUESTED

Defendant denies that Plaintiff is entitled to recover any damages or other relief, including the relief requested in the Summons.

GENERAL DENIAL

Defendant denies each and every allegation in the Summons not specifically admitted herein.

AFFIRMATIVE DEFENSES

At this time and based upon the limited allegations in the Summons, Defendant asserts the following Affirmative Defenses to the Summons:

1. The Summons, in whole or in part, fails to state a claim upon which relief can be granted.
2. Plaintiff's claims are barred, in whole or in part, by the applicable statutes of limitations, laches, estoppel, waiver or other equitable defenses.
3. At all times Defendant exercised reasonable care to prevent and correct any alleged harassment and Plaintiff unreasonably failed to take advantage of any preventive or corrective opportunities provided by Defendant or to otherwise avoid harm.
4. Plaintiff was an at-will employee.
5. All actions taken by Defendant with regard to Plaintiff were based solely on legitimate, non-discriminatory, non-retaliatory business reasons.
6. Punitive damages are not available against Defendant because Defendant made a good faith effort to comply with the law.
7. To the extent Plaintiff has failed to take reasonable steps to mitigate his damages, his claims are barred or his remedies diminished.

8. To the extent that Plaintiff establishes impermissible motive, Defendant would have taken the same action, in the absence of such impermissible motive.

9. Plaintiff's claims are barred, in whole or in part, to the extent that Plaintiff has failed to comply with or exhaust the mandatory administrative processes that are a prerequisite to the assertion of his claims in this Court.

10. Plaintiff's claims are barred by the doctrine of unclean hands and equitable estoppel.

11. Venue is improper.

12. This Court lacks personal jurisdiction over Defendant since Plaintiff's service of process is insufficient.

13. Defendant reserves the right to assert any additional separate or affirmative defenses that are made known during discovery.

WHEREFORE, Defendant requests that the Court enter judgment dismissing the Summons in its entirety with prejudice; granting to Defendant its costs and attorneys' fees; and granting to Defendant such other relief as the Court may deem just and proper.

Respectfully submitted,

Dated: August 13, 2007
New York, New York

MORGAN, LEWIS & BOCKIUS LLP

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of August 2007, a true and correct copy of the foregoing *Answer and Affirmative Defenses to Summons With Notice*, was served on the following via electronic filing:

Marshall B. Bellovin
Ballon Stoll Bader & Nadler, P.C.
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Attorneys for Plaintiff

s/ Jill Barbarino

Jill Barbarino